

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Petition of:

JANE NORTON, M.D.
44-350 Monterey
Palm Desert, CA 92260

Respondent.

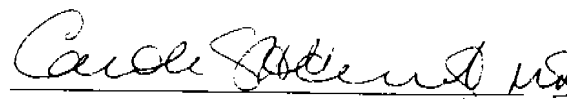
OAH No. N 1998040362

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on September 4, 1998.

IT IS SO ORDERED August 6, 1998.



CAROLE HURVITZ, M.D.
Chair - Panel B
Division of Medical Quality

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PROPOSED DECISION

Stewart A. Judson, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on May 20, 1998, at Oakland, California.

R. Thunen, Deputy Attorney General, represented the Attorney General of the State of California.

Jane Norton, M.D., represented herself.

FINDINGS OF FACT

I

The Medical Board of California issued physician and surgeon certificate No. 634784 to Jane Norton, M.D. (petitioner) on July 1, 1977. Accusation No. D-5310, dated July 23, 1993, was filed against her alleging cause for disciplinary action under Business and Professions Code sections 2234(b) (gross negligence), 2234(c) (repeated acts of negligence) and 2234(d) (incompetence).¹

¹ Petitioner's discipline arose from her treatment of three female patients. One involved a facelift, one a breast reduction and one a "tummy tuck."

II

In June 1995, petitioner executed a Stipulation and Order wherein she agreed to compromise the disputed allegations to avoid the costs and hardship of further litigation. Neither party construed the agreement as an admission of unprofessional conduct. Under the terms of the agreement, petitioner's certificate was suspended for one year, the suspension was stayed for five years, and petitioner was placed on probation for five years under certain conditions. The Board adopted this agreement effective September 8, 1995.

III

Petitioner filed a Petition for Penalty Relief with the Board on October 24, 1997, requesting termination of her probation.

IV

Petitioner received her medical degree from New York Medical College. She completed her residency at Cedars-Sinai Medical Center in surgery. She is board eligible in plastic surgery and conducts a solo practice at Palm Desert and Newport Beach, California. She is also licensed in Kentucky but has been placed on probation there based upon her California discipline.

V

In her Petition, petitioner submitted letters from two physicians. As a condition of probation, petitioner was required to undergo monitoring. W. H. Canada, M.D., a cosmetic surgeon of Las Vegas, Nevada, accepted the position and began monitoring her after she was placed on probation. Petitioner visited Dr. Canada at his office in Las Vegas every three months during the past two years. The sessions lasted from five to eight hours each and consisted of lectures on the conservative practice of cosmetic plastic surgery. Subjects included patient selection, conservative surgery in outpatient facilities, adequate informed consent, patient communication, quality medical photography, good post-operative patient care and medical records follow-up. Dr. Canada also visited petitioner at her office at Palm Desert to inspect her office and surgical unit.

As of October 3, 1997, Dr. Canada and petitioner have completed about twenty-five one-day sessions. In his letter, Dr. Canada states that both he and petitioner "have reached the point where there appears to be nothing else to discuss or review..." He endorses her petition for termination of probation.

VI

In his letter dated October 13, 1997, Joseph Eshagian, M.D., a board certified ophthalmologist, states he has known petitioner for a number of years when she was on the staffs of the L. A. New Hospital (now Beverly Hills Medical Center) and Temple Community Hospital. He is familiar with the allegations against her. He believes she has matured into a better physician during the past two years, has made the necessary changes in her practice and is fully rehabilitated.

VII

The Board's Discipline Coordination Unit issued a report dated February 4, 1998, noting that petitioner is in compliance with her probation. Her probation officer states that the surgery offices where petitioner performs surgery are AB 595 approved. To obtain accreditation for her surgery center, petitioner's charts are reviewed periodically by another plastic surgeon and an anesthesiologist. Petitioner is in compliance with the limitations placed on her surgery practice, her monitoring program, her limitation to two surgical offices and her coverage plan if patients require hospitalization. She has completed an ethics course and 121 hours of continuing education.² She has paid her cost recovery (\$5,000) liability in full. Probation monitoring costs were not ordered.

VIII

Petitioner's primary practice is at Palm Desert where she remains during the academic year. She practices in Newport Beach one day per week except during the summer. Both sites are AAAHC accredited. She has no staff privileges currently.

Petitioner has changed her post-surgical practice since her discipline. She now telephones the evening of the first day of surgery and documents the same. She sees the patient the following day and will spend the night in Newport Beach if necessary. Thereafter, Newport Beach patients can telephone her if a problem arises. If petitioner is in Palm Desert, she has a registered nurse in Newport Beach who sees her patients. She also has an arrangement with a physician in Newport Beach who can cover for her if necessary.

IX

Petitioner annually spends between two and four months in New York City where she owns a residence. She does not practice medicine in New York though she takes

² She is required to take forty hours of continuing education yearly.

continuing education courses there. She hopes to return to New York. When there, she has an arrangement with a physician in California who sees her patients if necessary. She calls daily when required.

X

Petitioner has several small outstanding judgments against her which she has not satisfied due to financial circumstances. She does not carry malpractice insurance. The Board received a malpractice report in December 1997. The patient was awarded \$45,000 in an insurance settlement. An investigation into this matter was closed in January 1998 due to insufficient evidence. Although petitioner drives in California, she does not possess a California driver license. She does have a valid New York license that expires in 1999. She was unaware that she must acquire a California license since she also resides in this state. She intends to obtain one immediately.

DETERMINATION OF ISSUES

I

The evidence establishes that petitioner has spent the minimum amount of time on probation--two years--before petitioning for penalty relief and has thus far complied with most of the terms of her probation. The only concern is whether petitioner has complied with condition H that requires her to obey all federal, state and local laws. Petitioner admits to driving in California without a valid California driving license. She claims ignorance of the law and avers she will obtain such license immediately.

II

Petitioner has presented evidence that she has benefited from her monitorship with Dr. Canada and has updated her office procedures to the benefit of her patients and practice. Petitioner appears to have profited professionally from her probationary term. The goals of the Board have been achieved.

III

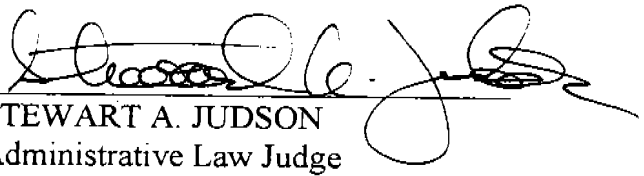
Cause for granting the petition exists with one condition.

ORDER

The petition of Jane Norton, M.D. for penalty relief is granted; provided, however, that the effective date of this decision shall be stayed until petitioner

demonstrates to the satisfaction of the Board that she has obtained a valid California driver license.

DATED: June 15, 1998


STEWART A. JUDSON
Administrative Law Judge
Office of Administrative Hearings